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STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



DAN WYANT  
DIRECTOR

November 18, 2011

Mr. Michael Berkoff, Remedial Project Manager  
United States Environmental Protection Agency  
Region 5  
77 West Jackson Boulevard (SRF-6J)  
Chicago, Illinois 60604-3507

Dear Mr. Berkoff:

SUBJECT: Allied Paper Operable Unit 1  
Applicable Relevant and Appropriate Requirements (ARARs) Table

In a letter dated October 17, 2011, the United States Environmental Protection Agency (U.S. EPA) requested that the Michigan Department of Environmental Quality (MDEQ) identify Michigan's ARARs to be included in the final Feasibility Study (FS) Report for Operable Unit 1 of the Allied Paper Inc./Portage Creek/ Kalamazoo River Superfund Site (OU1). Please find enclosed the requested ARAR table.

The MDEQ appreciates the opportunity to provide this information. If you have any questions regarding the enclosed table, please feel free to contact me at the number below.

Sincerely,

Paul Bucholtz  
Project Manager  
Specialized Sampling Unit  
Superfund Section  
Remediation Division  
517-373-8174

Enclosure

cc: Ms. Nicole Wood-Chi, U.S. EPA  
Ms. Polly Synk, Michigan Department of Attorney General  
Mr. David Kline, MDEQ  
Ms. Daria W. Devantier, MDEQ

Statute or Regulation	Citation	Description	ARAR/TBC	Rationale
<b>Michigan Public Act 451, Part 91 - Soil Erosion and Sediment Control</b>	MCL 324.9101-324.9123a	Requirements for owners of land undergoing an earth change. Establishes rules prescribing soil erosion and sedimentation control plans, procedures, and measures.	Relevant and Appropriate	For any remedial action involving an earth change, liable parties must implement and maintain soil erosion and sedimentation control measures. Substantive requirements of permit must be satisfied.
NREPA Part 91 Rules	MAC R 323.1701-1714	Requirements for owners of land undergoing an earth change. Establishes rules prescribing soil erosion and sedimentation control plans, procedures, and measures.	Relevant and Appropriate	For any remedial action involving an earth change, liable parties must implement and maintain soil erosion and sedimentation control measures. Substantive requirements of permit must be satisfied.
<b>Michigan Public Act 451, Part 31 - Water Resources Protection</b>	MCL 324.3101-3133	Prohibition of discharge waste or waste effluent into surface water without approval of the State and establishment of rules; provisions in 3109b allow for mixing zone for discharge of venting groundwater, 3108 prohibits filling or grading of a floodplain unless permitted by the State, and 3109b defines when Part 31 remedial obligations are met.	Applicable or TBC	Certain remedial alternatives may involve discharge of waters to the Kalamazoo River. Substantive requirements of a NPDES permit must be attained. For any remedial alternative where waste is left in place, the mixing zone criteria shall not be less protective than for point source discharges. For any remedial alternative meeting the requirements of Part 201, Part 31 requirements are satisfied.
NREPA Part 31 Rules	MAC R 323.1041 - 323.1117; R 323.1171 - 323.1181; R 323.1201 - 323.1221; R 323.1311 - 323.1329; R 323.1701 – 323.1714; R 323.2101- 323.2197; R 323.2201 – 323.2240; R 323.2301 – 323.2317; R 323.3001 – 323.3027; R 324.2001 - 324.2009	Prohibition of discharge waste or waste effluent into surface water without approval of the State and establishment of rules. STATE ACTION/LOCATION-SPECIFIC ARARs and TBCs, Continued	Applicable or Relevant and Appropriate	Certain remedial alternatives may involve discharge of waters to the Kalamazoo River. Substantive requirements of a NPDES permit must be attained.
<b>Michigan Public Act 451, Part 111-Hazardous Waste Management</b>	MCL 324.11105	Establishes requirements for hazardous waste generators, transporters, and treatment/storage/disposal facilities.	TBC	Allied Operable Unit is not a TSD facility or a generator. Response activities may generate waste material that may be classified as hazardous waste from former mill operations. Used for characterizing and identifying hazardous wastes and determining appropriate disposal options.
Part 111 Rules	MAC R 299.9101 -11107	Establishes requirements for hazardous waste generators, transporters, and treatment/storage/disposal facilities.	TBC	Allied Operable Unit is not a TSD facility or a generator. Response activities may generate waste material that may be classified as hazardous waste from former mill operations. Used for characterizing and identifying hazardous wastes and determining appropriate disposal options.
<b>Michigan Public Act 451, Part 115- Solid Waste Management</b>	MCL 324 11501-11550	Establishes rules for methods of solid waste disposal and for design/operational standards for disposal areas. Describes where Type III Landfill standards apply.	Relevant and Appropriate	By statute, material at Allied OU is "solid waste" and the OU is a "disposal area." By rule, the OU is a "Sanitary Landfill, Type III" to which Type III standards apply. Considering Type III standards apply to Allied OU, cover design requirements must be met and must meet the specifications in the rules. Landfill design must ensure that all requirements for the protection of surface and groundwater under Part 31 (and rules) are met. A design that keeps the final cover from being inundated is capable of limiting erosion and infiltration to the extent necessary to protect human health and the environment. The OU1 landfill does not currently have a liner or leachate system, and thus the rules require separation between waste and groundwater unless (1) a leachate collection system is installed, (2) a gravity collection system is installed, or (3) a variance is approved by DEQ. Substantive requirements of R 299.4310-4320 must be met in some circumstances. Natural soil barriers (or augments) may be evaluated under the specs in the rules to help determine if the barriers are adequate to prevent lateral flow of groundwater or leachate into and out of the waste. Substantive portions of Construction Quality Control must be met in Remedial Design and Remedial Act
Part 115 Rules	MAC R 299.4101-4922	Rules provide specifications for Type III landfill final cover design to minimize erosion and infiltration to protect public health; water quality performance standards, minimum permanent clearance for landfills without a liner or leachate collection system, Type III landfill groundwater monitoring requirements, requirements for hydrogeologic monitoring plan, monitoring network, and associated sampling, requirements for natural soil barriers, requirements for final cover materials, and Construction Quality Controls.	Applicable or Relevant and Appropriate	On-site remedial actions have the potential to expose workers to contaminants. Construction, excavation and other site actions may present potential health hazards to workers. Human labor could construct remedial systems and provide long-term maintenance on the systems. Such activities are governed by worker safety and health standards under this act and are applicable to all site actions and activities.
<b>Michigan Occupational Safety and Health Act, Act 154 of 1974</b>	MCL 408.1001-1094 Part 4 through 13 of the All Industry Administrative Rules, Part 1 through 91 (including the General Rules) of Construction Safety Standards Commission Rules, Part 1 through 93 of the General Industry Safety Standards Commission Rules, and Part 301 through 681 of the Occupational Health Standards Commission Rules	Establishes the rules for safety standards in the workplace.	Applicable	On-site remedial actions have the potential to expose workers to contaminants. Construction, excavation and other site actions may present potential health hazards to workers. Human labor could construct remedial systems and provide long-term maintenance on the systems. Such activities are governed by worker safety and health standards under this act and are applicable to all site actions and activities.
MIOSHA Rules		Establishes the rules for safety standards in the workplace.	Applicable	On-site remedial actions have the potential to expose workers to contaminants. Construction, excavation and other site actions may present potential health hazards to workers. Human labor could construct remedial systems and provide long-term maintenance on the systems. Such activities are governed by worker safety and health standards under this act and are applicable to all site actions and activities.
<b>Michigan Public Act 451, Part 55 - Air Pollution Control</b>	MCL 324.5501-324.5542	Establishes rules prohibiting the emission of air contaminants in quantities which cause injurious effects to human health, animal life, plant life or significant economic value, and/or property.	Applicable	Applicable for remedial alternatives that would generate air emissions (e.g., dust, during excavation, soil stabilization, or compaction). For certain remedial alternatives, air emissions must comply with substantive requirements of permits and monitoring would be required.
Part 55 Rules	MAC R 336.1101-2706	Establishes rules prohibiting the emission of air contaminants in quantities which cause injurious effects to human health, animal life, plant life or significant economic value, and/or property.	Applicable	Applicable for remedial alternatives that would generate air emissions (e.g., dust, during excavation, soil stabilization, or compaction). For certain remedial alternatives, air emissions must comply with substantive requirements of permits and monitoring would be required.
<b>Michigan Public Act 300 of 1949, as amended. Michigan Vehicle Code</b>	MCL 257.716 - 257.750	Statute governs the reduction of maximum axle loads during springtime frost periods and provides for the establishment of rules.	Applicable	Remedial action and construction may require heavy loads of equipment, fill dirt, contaminated media, etc. to be transported over roadways; however, this is not allowed during frost periods.



Statute or Regulation	STATE CHEMICAL-SPECIFIC ARARs AND TBCs Citation	Description	ARAR/TBC	Rationale
Michigan Natural Resources and Environmental Protection Act (NREPA), Public Act 451, Part 31 - Water Resources Protection	MCL 324.3101-3133	Prohibits direct or indirect discharge of a substance that is injurious to public health, recreational use, or aquatic life. Establishes rules specifying standards for several water quality parameters.	Applicable	Any remedial action that results in the unacceptable discharge of injurious substances will not be considered effective or complete.
NREPA Part 31 Rules	Michigan Administrative Code (MAC) R 323.1041-1116 (Part 4 Rules) MAC R 323.1201-1221 (Part 8, Water Quality-Based Effluent Limit Development for Toxic Substances Rules) MAC R 323.2101-2104, 2136-2140, 2142-2145, 2149, 2152-2155, 2160-2161, 2190 (Part 21, Wastewater Discharge Permit Rules) MAC R 323.1311-1329 (Part 13, Floodways and Floodways Rules)	The Part 4 Rules specify water quality standards which shall be met in all waters of the state. The rules require that all designated uses of the receiving water be protected, including indigenous aquatic life and wildlife.  In accordance with federal WPCA and CWA, the Part 8 Rules establish chemical-specific water quality-based effluent limits (WQBELs) for point-source discharges.  The Part 21 Rules establish a waste effluent discharge system compatible with NPDES. Regulates activities to occupy, fill, or grade lands in a floodplain, streambed, or channel of a stream.	Applicable  Relevant and Appropriate  Relevant and Appropriate  ARAR	These rules drive the need to reduce contaminant loading to Portage Creek and the Kalamazoo River. Surface water quality standards may be used to assess surface water quality in the vicinity of the Allied Paper Operable Unit and as a means to gauge effectiveness of a remedial action. Part 201 requires that remedial actions comply with Part 31 and its promulgated rules. Criteria are applicable to venting groundwater, storm water, and discharge associated with implementing the remedial action.  Substantive requirements of state discharge permits (including storm water permits) must be attained for remedial actions taking place on site. The OU lies within the 100-year floodplain. Substantive requirements would need to be met for certain remedial activities.
Michigan Public Act 451, Part 201 - Environmental Remediation	MCL 324.20101 - MCL 324.20142	Part 201 establishes rules specifying site cleanup criteria. Requires that remedial action be consistent with cleanup criteria. Generic and site-specific criteria deemed to meet the protectiveness requirement.	Applicable	By statute, the Allied OU is a "facility." Response activities conducted at the site must meet the appropriate state-established protective criteria. If these criteria are attained, the remedial action will be considered protective by MDEQ.
NREPA Part 201 rules	MAC R 299.5101-5117, R 299.5701-5752 Statutorily-required (see MCL 324.20120a(1)(b)) criteria found at: <a href="http://www.michigan.gov/deq/0,1607,7-135-3311_4109_9846_30022-251790--,00.html">http://www.michigan.gov/deq/0,1607,7-135-3311_4109_9846_30022-251790--,00.html</a>	Rules provide residential cleanup criteria for soil and groundwater.	Applicable	By statute, the Allied OU is a "facility." Response activities conducted at the site must meet the appropriate state-established protective criteria. If these criteria are attained, the remedial action will be considered protective by MDEQ.
NREPA Part 201 criteria tables		Tables for nonresidential and residential soil and groundwater criteria	Applicable	By statute, the Allied OU is a "facility." Response activities conducted at the site must meet the appropriate state-established protective criteria. If these criteria are attained, the remedial action will be considered protective by MDEQ.
	STATE ACTION/LOCATION-SPECIFIC ARARs and TBCs			
Michigan Public Act 451, Part 303 - Wetland Protection	MCL 324.30301 - 324.30329	Provides for protection and conservation of wetlands, including establishing rules regarding wetland uses and prohibitions on future use.	Relevant and Appropriate	For certain remedial alternatives, these regulations may limit potential work and/or storage areas and future reuse.
Part 303 Rules	MAC R 281.921-925, R 281.951-281.961	Provides categories and types of wetlands and corresponding mitigation ratios for impacts to varying types of wetlands, as well as availability of wetland banking	TBC	Ratios and mitigation requirements may inform decisions about work in wetland areas.
Michigan Public Act 451, Part 201 - Environmental Remediation	MCL 324.20101 - 20142	Requires that a remedial action shall provide for response activity that will satisfy cleanup criteria; requirements for owner of facility, such as preventing exacerbation and exercising due care; restrictions on transfer of real property designated as a facility, and requirements that if residential criteria are not met, land use restrictions must be provided. Actions required upon approval of remedial action plans, elements of remedial action plans; required action if contaminated soil is moved off-site or relocated within the site.	Applicable or Relevant and Appropriate	The remedial action implemented must meet generic or site-specific cleanup criteria; Due to existing contamination, property cannot be transferred without notification of land use restrictions that apply to the site. All actions leaving contamination in place must, with county register of deeds, record restrictions on activities that may interfere with the integrity of the remedial action and on activities that may result in unacceptable exposure. Substantive requirements can be met in remedial design documents. For example, by including an aquifer monitoring plan and operation and maintenance plan. Such plans identify points of compliance for judging the effectiveness of the remedial action. Material moved off site must be evaluated to determine if it is subject to Part 111. Required approval to move soil can be attained through MDEQ approval of a Remedial Design.
NREPA Part 201 Rules	MAC R 299.5701-299.5752	Part 7 Rules: Cleanup Criteria Requirements for Remedial Actions and Interim Respons	Applicable	The remedial action implemented must meet generic or site-specific cleanup criteria, applicable to all environmental media and may be used to gauge the success of the remedial action.
		STATE ACTION/LOCATION-SPECIFIC ARARs and TBCs, Continued		
Michigan Public Act 451, Part 301 - Inland Lakes and Streams	MAC R 299.5520-5540, MAC R 299.51001-51021  MAC R 281.951-965	Objectives of response activities, determination (or nullification) that a response activity is complete; Required elements of remedial action plans; Requirements for land use restrictions if residential criteria are not met; Liable parties must provide notice to the department and adjacent land owners in certain situations, such as if hazardous substances emanate beyond the property boundary.  Regulates dredging or filling of lake or stream bottoms.	Applicable or Relevant and Appropriate  Relevant and Appropriate	When the response action is complete, the entity initiating the action has the burden of demonstrating that the action meets all requirements; Substantive requirements can be met in remedial design documents. For example, by including an aquifer monitoring plan and operation and maintenance plan. Such plans identify points of compliance for judging the effectiveness of the remedial action. All actions leaving contamination in place must, with county register of deeds, record restrictions on activities that may interfere with the integrity of the remedial action and on activities that may result in unacceptable exposure. For remedial alternatives involving any fill in the river channel or streambeds, activities may be restricted by these regulations.